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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAXED

X17, INC., a California corporation,
Plaintiff,

vs.

MARIO LAVANDEIRA, dba Perez
Hilton, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. CV 06-07608(VBF)(JCx)

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S OBJECTION TO
MOTION FOR SUMMARY
JUDGMENT**

Date: January 28, 2008
Time: 1:30 p.m.
Room: 9

1 On December 26, 2007, Plaintiff X17, Inc. filed an objection to Defendant
 2 Mario Lavandeira's motion for summary judgment or, in the alternative, summary
 3 adjudication, on the grounds that it "was not timely and properly filed." X17's
 4 objection is based on the fact that Lavandeira filed the moving papers by hand rather
 5 than electronically. X17's objection lacks merit.

6 On June 18, 2007, this Court issued its Scheduling and Case Management
 7 Order, a true and correct copy of which is attached hereto as Exhibit 1. On page 21
 8 of the Order, the Court set the following deadline to file motions: December 17,
 9 2007. Lavandeira filed and served his motion for summary judgment papers on
 10 December 17, 2007 – the date set by this Court. While he did not file the papers
 11 electronically, he did file them by hand.¹ Thus, there can be no question that the
 12 Court received the papers on the due date. Furthermore, there can be no prejudice
 13 whatsoever.

14 X17's reference to Magistrate Judge Chooljian's order denying X17's motion
 15 to compel discovery responses as untimely is entirely irrelevant because that order
 16 was based on the fact that X17 filed its motion to compel discovery responses well
 17 after the discovery cutoff.

18 Dated: December 27, 2007

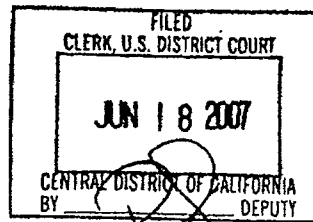
FREEDMAN & TAITELMAN LLP
DOLL AMIR & ELEY LLP

21 By: 

22 Michael M. Amir
 23 Attorneys for Defendant
 24 MARIO LAVANDEIRA dba
 25 Perez Hilton

26
 27 ¹ Lavandeira's counsel did not file electronically because he did not know of the requirement
 28 to do so. Lavandeira's counsel has since signed up for the electronic filing program and will
 file all subsequent documents electronically.

EXHIBIT 1



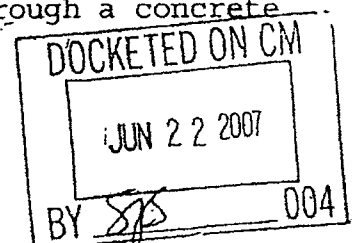
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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

X17, Inc.,) Case No. CV 06-7608-VBF(JCx)
 Plaintiff,) SCHEDULING AND CASE MANAGEMENT
 v.) ORDER FOR CASES ASSIGNED TO
 Mario Lavandeira, dba Perez) JUDGE VALERIE BAKER FAIRBANK
 Hilton,)
 Defendants.)

This case has been assigned to the calendar of Judge
 Valerie Baker Fairbank.

This Order is to advise the parties and counsel of the
 schedule that will govern this action. SEE THE LAST PAGE OF
 THIS ORDER FOR THE SPECIFIED DATES. Ordinarily, the dates
 set forth on the last page are determined after consultation
 with the parties at the Fed. R. Civ. P. 16(b) Scheduling
 Conference. This Order is distributed to them at that time.
 The dates and requirements are firm. The Court is unlikely
 to grant continuances, even if stipulated by the parties,
 unless the parties establish good cause through a concrete
 showing.



1 IT IS HEREBY ORDERED:

2 1. To secure the just, speedy and inexpensive
3 determination of every action, all counsel are ordered to
4 familiarize themselves with and follow the Federal Rules of
5 Civil Procedure and the Local Rules of the Central District
6 of California. This Court follows these rules and they will
7 govern this litigation.

8 2. Because this Order in some respects modifies or adds
9 to the Local Rules, counsel are advised to read it carefully.
10 Counsel are advised to pay particular attention to the
11 requirements of the Court with respect to the filing of
12 motions for summary judgment and documents to be submitted at
13 the Final Pretrial Conference and Trial.

14 3. The attorney attending any proceeding before this
15 court must be an attorney who is thoroughly knowledgeable
16 about the case, responsible for the conduct of the
17 litigation, and who has authority to enter into stipulations
18 and to make admissions regarding all matters that the
19 participants reasonably anticipate may be discussed. Lead
20 counsel who will actually try the case must attend the Final
21 Pretrial Conference. A party who is not represented must
22 attend all proceedings in person.

23 4. COURTESY COPIES REQUIRED: A courtesy copy of all
24 papers filed with the court shall be promptly delivered to
25 the chambers of Judge Valerie Baker Fairbank in the drop
26 box/tray outside the Judge's chambers on the day of filing.
27 BY 4:00 p.m. The Judge's Chambers is located at the end of
28 the hallway, to the right of the courtroom.

1 5. Discovery Cut-Off: All discovery shall be completed
2 by the discovery cut-off date specified on the last page of
3 this Order. THIS IS NOT THE DATE BY WHICH DISCOVERY
4 REQUESTS MUST BE SERVED; IT IS THE DATE BY WHICH ALL
5 DISCOVERY IS TO BE COMPLETED.

6 Any motion challenging the adequacy of responses to
7 discovery must be heard sufficiently in advance of the
8 discovery cut-off date to permit the responses to be obtained
9 before that date if the motion is granted.

10 In an effort to provide further guidance to the parties, the
11 Court notes the following:

12 a. Depositions: All depositions shall be
13 scheduled to commence sufficiently in advance of the
14 discovery cut-off date to permit their completion and to
15 permit the deposing party enough time to bring any discovery
16 motions concerning the deposition prior to the cut-off date.

17 b. Written Discovery: All interrogatories,
18 requests for production of documents, and requests for
19 admissions shall be served sufficiently in advance of the
20 discovery cut-off date to permit the discovering party enough
21 time to challenge (via motion practice) responses deemed to
22 be deficient.

23 c. Discovery Motions: Whenever possible, the
24 Court expects the parties to resolve discovery issues among
25 themselves in a courteous, reasonable and professional
26 manner. The Magistrate Judge assigned to this case will rule
27 on discovery motions. (The Magistrate Judge's initials
28 follow the district judge's initials next to the case number

1 on the first page of this Order.) Counsel are directed to
2 contact the Magistrate Judge courtroom deputy clerk to
3 schedule discovery matters for hearing. Counsel should not
4 deliver courtesy copies of these discovery documents to this
5 court.

6 d. Expert Discovery: If expert witnesses are to
7 be called at trial, the parties shall designate affirmative
8 experts to be called at trial and provide reports required by
9 Fed. R. Civ. P. 26(a)(2)(B) not later than eight weeks prior
10 to the discovery cut-off date. Rebuttal expert witnesses
11 shall be designated and reports provided as required by Fed.
12 R. Civ. P. 26(a)(2)(B) not later than five weeks prior to the
13 discovery cut-off date. Failure to timely comply with
14 deadlines may result in the expert being excluded at trial as
15 a witness.

16 6. Motions and Motion Cut-Off Date

17 a. General Provisions: All law and motion
18 matters, except for motions in limine, must be set for
19 hearing (not filing) by the motion cut-off date specified on
20 the last page of this Order.

21 This Court hears motions on Mondays, beginning at 1:30
22 p.m.

23 The parties must adhere to the requirements of the Local
24 Rules. See Local Rules 7-1 et seq. If any party does not
25 oppose a motion, that party shall submit a written statement
26 that it does not oppose the motion in accordance with Local
27 Rule 7-9.

28

1 The title page of all motions must state the Final
2 Pre-Trial Conference date and the Trial date. To insure that
3 the Court receives oppositions and replies in a timely
4 fashion, courtesy copies, conformed to reflect that they have
5 been filed, should be deposited in the drop box/tray located
6 in the entrance way to the Chambers of Judge Fairbank. The
7 Judge's chambers is located at the end of the hallway, to the
8 right of the courtroom.

9 Counsel must comply with Local Rule 7-3, which requires
10 counsel to engage in a pre-filing conference "to discuss
11 thoroughly . . . the substance of the contemplated motion and
12 any potential resolution."

13 Issues left undetermined after the passage of the motion
14 cut-off date should be listed as issues for trial in the
15 Final Pre-Trial Conference Order. As an exception to the
16 above, motions in limine dealing with evidentiary matters may
17 be heard pursuant to the schedule specified on the last page
18 of this Order.

19 *Ex parte* practice is discouraged. See *Mission Power*
20 *Eng'g v Co. . Continental Cas. Co.*, 883 F. Supp. 488 (C.D.
21 Cal. 1995). The Court will require strict adherence to
22 proper *ex parte* procedures for any *ex parte* application filed
23 with the Court. *Id.* at 492; see also Local Rule 7-19.

24 b. Applications and Stipulations to Extend Time:
25 Applications to extend the time to file any required document
26 or to continue any hearing, Final Pre-Trial Conference or
27 Trial date must set forth the following:

28

1 (i) the existing due date or hearing date, as
2 well as the discovery cut-off date, the Final Pre-Trial
3 Conference date, and the Trial date;

4 (ii) specific, concrete reasons supporting
5 good cause for granting the extension; and

6 (iii) whether there have been prior requests
7 for extensions, and whether these requests were granted or
8 denied by the Court.

9 c. Joinder of Parties and Amendment of Pleadings:

10 The deadline for joining parties and amending pleadings is
11 ninety days after the date of this Order. Any motions to
12 join other parties or for leave to amend the pleadings shall
13 be filed within sixty days of the date of this Order so that
14 they can be heard and decided prior to the deadline.

15 In addition to the requirements of Local Rule 15-1, all
16 motions to amend the pleadings shall: (1) state the effect of
17 the amendment; (2) be serially numbered to differentiate the
18 amendment from previous amendments; and (3) state the page,
19 line number(s), and wording of any proposed change or
20 addition of material.

21 The parties shall deliver to Chambers a redlined version
22 of the proposed amended pleading indicating all additions
23 and deletions of material.

24 d. Summary Judgment Motions: The Court will
25 require adherence to the following requirements:

26 (i) Separate Statement of Uncontroverted Facts
27 and Statement of Genuine Issues of Material Fact:

28

1 The Separate Statement of Uncontroverted Facts is to be
2 prepared in a two column format. The left-hand column should
3 set forth the allegedly undisputed fact. The right-hand
4 column should set forth the evidence that supports the
5 factual statement. The factual statements should be set
6 forth in sequentially numbered paragraphs. Each paragraph
7 should contain a narrowly focused statement of fact. Each
8 numbered paragraph should address a single subject in as
9 concise a manner as possible.

10 The opposing party's Statement of Genuine Issues of
11 Material Fact must be in two columns and track the movant's
12 Separate Statement exactly as prepared. The document must be
13 in two columns; the left-hand column must restate the
14 allegedly undisputed fact, and the right-hand column must
15 indicate either undisputed or disputed. The opposing party
16 may dispute all or only a portion of the statement, but if
17 disputing only a portion, must clearly indicate what part is
18 being disputed. Where the opposing party is disputing the
19 fact in whole or part, the opposing party must, in the
20 right-hand column, label and restate the moving party's
21 evidence in the support of the fact, followed by the opposing
22 party's evidence controverting the fact. Where the opposing
23 party is disputing the fact on the basis of an evidentiary
24 objection, the party must cite the evidence alleged to be
25 objectionable and state the ground of the objection and
26 nothing more. No argument should be set forth in this
27 document.

28

1 The opposing party may submit additional material facts
2 that bear on or relate to the issues raised by the movant,
3 which shall follow the format described above for the moving
4 party's Separate Statement. These additional facts shall
5 follow the movant's facts, shall continue in sequentially
6 numbered paragraphs (i.e. if movant's last statement of fact
7 was set forth in paragraph 30, then the first new fact will
8 be set forth in paragraph 31), and shall set forth in the
9 right-hand column the evidence that supports that statement.

10 The moving party, in its reply, shall respond to the
11 additional facts in the same manner and format that the
12 opposing party is required to adhere to in responding to the
13 Statement of Uncontroverted Facts, as described above.

14 (ii) Supporting Evidence. No party should
15 submit any evidence other than the specific items of evidence
16 or testimony necessary to support or controvert a proposed
17 statement of undisputed fact. Thus, for example, the entire
18 transcripts of depositions, entire sets of interrogatory
19 responses, and documents that do not specifically support or
20 controvert material in the Separate Statements should not be
21 submitted in support of or in opposition to a motion for
22 summary judgment.

23 Evidence submitted in support of or in opposition to a
24 motion for summary judgment should be submitted either by way
25 of stipulation or as exhibits to a declaration sufficient to
26 authenticate the proffered evidence, and should not be
27 attached to the memorandum of points and authorities. The
28 Court will accept counsel's authentication of deposition

1 transcripts, written discovery responses, and the receipt of
2 documents in discovery if the fact that the document was in
3 the opponent's possession is of independent significance. 50

4 Documentary evidence as to which there is no stipulation
5 regarding foundation must be accompanied by the testimony,
6 either by declaration or properly authenticated deposition
7 transcript, of a witness who can establish its authenticity.

8 All evidence in support of or in opposition to a motion
9 for summary judgment, including declarations and exhibits to
10 declarations, shall be separated by a tab divider on the
11 bottom of the page. If evidence in support of or in
12 opposition to a motion for summary judgment exceeds twenty
13 pages, the evidence must be in a separately bound volume and
14 include a Table of Contents. If the supporting evidence
15 exceeds fifty pages, the Court's courtesy copy of the
16 supporting evidence shall be placed in a Slant D-Ring binder
17 with each item of evidence separated by a tab divider on the
18 right side. All documents contained in the binder should be
19 three-hole-punched with the oversized 13/32" hole size, not
20 the standard 9/32" hole size.

21 (iii) Objections to Evidence. If a party
22 disputes a fact based in whole or in part on an evidentiary
23 objection, the ground for the objection, as indicated above,
24 should be stated in the Separate Statement, but not argued in
25 that document. Evidentiary objections should be addressed in
26 a separate memorandum to be filed with the opposition or
27 reply brief of the party. This memorandum should be
28 organized to track the paragraph numbers of the Separate

1 Statement in sequence. It should identify the specific item
2 of evidence to which objection is made, the ground for the
3 objection, and a very brief argument with citation to
4 authority as to why the objection is well taken. The
5 following is an example of the format contemplated by the
6 Court:

7 Separate Statement Paragraph 1: Objection to the
8 supporting deposition transcript of Jane Smith at 60:1-10 on
9 the grounds that the statement constitutes inadmissible
10 hearsay and no exception is applicable. To the extent it is
11 offered to prove her state of mind, it is irrelevant since
12 her state of mind is not in issue. Fed. R. Evid. 801, 802.
13 DO NOT SUBMIT BLANKET OR BOILERPLATE OBJECTIONS TO THE
14 OPPONENT'S STATEMENTS OF UNDISPUTED FACT. THESE WILL BE
15 DISREGARDED AND OVERRULED.

16 (iv) The Memorandum of Points and Authorities.
17 The movant's memorandum of points and authorities should be
18 in the usual form required under Local Rule 7 and should
19 contain a narrative statement of facts as to those aspects of
20 the case that are before the Court. All facts should be
21 supported with citations to the paragraph number in the
22 Separate Statement that supports the factual assertion.

23 Unless the case involves some unusual twist, the motion
24 need only contain a brief statement of the Fed. R. Civ. P. 56
25 standard; the Court is familiar with the Rule and with its
26 interpretation under Celotex and its progeny. If at all
27 possible, the argument should be organized to focus on the
28 pertinent elements of the claim(s) for relief or defense(s)

1 in issue, with the purpose of showing the existence or
2 non-existence of a genuine issue of material fact for trial
3 on that element of the claim or defense.

4 Likewise, the opposition memorandum of points and
5 authorities should be in the usual form required by Local
6 Rule 7. Where the opposition memorandum sets forth facts,
7 the memorandum should cite to paragraphs in the Separate
8 Statement if they are not in dispute, to the evidence that
9 contravenes the fact where the fact is in dispute, or, if the
10 fact is contravened by an additional fact in the Statement of
11 Genuine Issues of Material Fact, the citation should be to
12 such fact by paragraph number.

13 (v) Proposed Statement of Decision. Each party
14 shall file and serve a Proposed Statement of Decision, which
15 shall contain a statement of the relevant facts and
16 applicable law with citations to case law and the record.
17 The Proposed Statement of Decision shall not exceed five
18 pages and shall be in a form that would be appropriate for
19 the Court to enter as its final order on the motion.

20 (vi) Timing. In virtually every case, the
21 Court expects that the moving party will provide more than
22 the minimum twenty-one day notice for such motions.

23 [NOTE: Parties need not wait until the motion cut-off to
24 bring motions for summary judgment or partial summary
25 judgment. Early completion of non-expert discovery and
26 filing of motions for summary judgment may eliminate or
27 reduce the need for expensive expert depositions that are
28 normally conducted in the last stages of discovery.]

1 e. Avoid Composite Motions. Unless clearly
2 justified under the circumstances of the case, "motions to
3 dismiss or in the alternative for summary adjudication" are
4 discouraged. These composite motions tend to blur the
5 distinctions between the two motions.

6 f. Motions in Limine. Before filing any motion in
7 limine, counsel for the parties shall confer in good faith to
8 eliminate the necessity for hearing the motion in limine or
9 to eliminate as many of the disputes as possible. It shall
10 be the responsibility of counsel for the moving party to
11 arrange for this conference. The motion papers must include
12 a declaration showing a good faith meet and confer effort.

13 Unless otherwise ordered by the Court, motions in limine
14 will be heard on the date specified on the last page of this
15 Order. Unless the Court in its discretion otherwise allows,
16 no motions in limine shall be filed or heard on an ex parte
17 basis, absent a showing of irreparable injury or prejudice
18 not attributable to the lack of diligence of the moving
19 party.

20 7. Final Pre-Trial Conference and Local Rule 16 Filings

21 a. General Provisions. The Final Pre-Trial
22 Conference ("FPTC") will be held on the date specified on the
23 last page of this Order, unless the Court expressly waived
24 the FPTC at the Scheduling Conference. (In the rare cases
25 where the Court waives a FPTC, the parties must follow Local
26 Rule 16-10.)

27 The lead trial attorney on behalf of each party shall
28 attend both the FPTC and all meetings of the parties in

1 preparation for the FPTC, unless excused for good cause shown
2 in advance of the FPTC.

3 At the FPTC, the parties should be prepared to discuss
4 means of streamlining the trial, including, but not limited
5 to the following: bifurcation; presentation of foundational
6 and non-critical testimony and direct testimony by deposition
7 excerpts; narrative summaries and/or stipulations as to the
8 content of testimony; presentation of testimony on direct
9 examination by affidavit or by declaration subject to
10 cross-examination; and qualification of experts by admitted
11 resumes. The Court will also discuss settlement.

12 b. Form of the Final Pre-Trial Conference Order
13 ("FPTCO"). The proposed FPTCO shall be lodged by the date
14 specified on the last page of this Order. Adherence to this
15 time requirement is necessary for in-chambers preparation of
16 the matter. The form of the proposed FPTCO shall comply with
17 Appendix A to the Local Rule and the following:

18 (i) Place in "ALL CAPS" and in bold the
19 separately numbered headings for each category in the FPTCO
20 (e.g., "1. THE PARTIES" or "7. CLAIMS AND DEFENSES OF THE
21 PARTIES").

22 (ii) Include a Table of Contents at the
23 beginning.

24 (iii) In specifying the surviving pleadings
25 under Section 1, state which claims or counterclaims have
26 been dismissed or abandoned (e.g., "Plaintiff's second cause
27 of action for breach of fiduciary duty has been dismissed.")).
28 Also, in multiple party cases where not all claims or

1 counterclaims will be prosecuted against all remaining
2 parties on the other side, specify to which party each claim
3 or counterclaim is directed.

4 (iv) In drafting the FPTCO, the Court expects
5 that the parties will attempt to agree on and set forth as
6 many uncontested facts as possible. The Court will usually
7 read the uncontested facts to the jury at the start of the
8 trial. A carefully drafted and comprehensively stated
9 stipulation of facts will reduce the length of trial and
10 increase jury understanding of the case.

11 (v) In specifying the parties' claims and
12 defenses in Section 7 of the FPTCO, each party shall closely
13 follow the examples set forth in Appendix A of the Local
14 Rules.

15 (vi) The Court may submit fact issues to the
16 jury in the form of findings on a special verdict. The
17 issues of fact should track the elements of a claim or
18 defense on which the jury will be required to make findings.

19 (vii) If expert witnesses are to be called at
20 trial, each party must list and identify its respective
21 expert witnesses, both retained and non-retained. Failure of
22 a party to list and identify an expert witness in the FPTCO
23 could result in a court order which precludes the party from
24 calling that expert witness at trial.

25 c. Rule 16 Filings; Memoranda; Witness Lists;
26 Exhibit Lists. The parties must comply fully with the
27 requirements of Local Rule 16. They shall file carefully
28 prepared Memoranda of Contentions of Fact and Law (which may

1 also serve as the trial brief), along with their respective
2 Witness Lists and Exhibit Lists, all in accordance with Local
3 Rules 16-3, 16-4, and 16-5. See the last page of this Order
4 for applicable dates.

5 d. Summary of Witness Testimony and Time
6 Estimates. Counsel shall prepare a list of their witnesses,
7 including a brief summary (two to three paragraphs) of each
8 witness's expected testimony, an estimate of the length of
9 time needed for direct examination, and whether the witness
10 will testify by deposition or in person. Counsel shall
11 exchange these lists with opposing counsel. Counsel shall
12 jointly file a single list of witness testimony summaries,
13 including estimates for direct examination of their own
14 witnesses and estimates for cross-examination of opposing
15 witnesses. The joint witness testimony summaries shall be
16 filed at the same time counsel lodge the FPTCO. If a party
17 intends to offer deposition testimony into evidence at trial,
18 the party shall designate the relevant portions of the
19 deposition testimony to be read at trial and advise opposing
20 counsel of same. Opposing counsel shall then designate any
21 additional portions of such deposition testimony which
22 counsel intends to offer in evidence. All objections to any
23 such testimony shall be made in writing and filed at the same
24 time counsel lodge the FPTCO so that the Court may consider
25 whether ruling on the objections will facilitate trial or
26 result in the disposition of evidentiary matters that may
27 assist continuing settlement negotiations.

28

1 e. Final Pre-Trial Conference - Exhibit
 2 Stipulation. The parties shall prepare a Final Pre-Trial
 3 Exhibit Stipulation that shall contain each party's numbered
 4 list of all trial exhibits, with objections, if any, to each
 5 exhibit including the basis of the objection and the offering
 6 party's response. All exhibits to which there is no
 7 objection shall be deemed admitted. All parties shall
 8 stipulate to the authenticity of exhibits whenever possible,
 9 and the Final Pre-Trial Exhibit Stipulation shall identify
 10 any exhibits for which authenticity has not been stipulated
 11 to and the specific reasons for the party's failure to
 12 stipulate.

13 The Stipulation shall be substantially in the following
 14 form:

15 Pre-Trial Exhibit Stipulation
 16 Plaintiff(s)' Exhibits
 17 Number Description If Objection, State Grounds
 18 Response to Objection
 19 Defendant(s)' Exhibits
 20 Number Description If Objection, State Grounds
 21 Response to Objection

22 The Final Pre-Trial Exhibit Stipulation shall be filed at
 23 the same time counsel lodge the FPTCO. Failure to comply
 24 with this paragraph could be deemed to constitute a waiver of
 25 all objections..

26 c. Jury Instructions, Verdict Forms, Special
 27 Interrogatories
 28

1 (i) Fourteen days before the Local Rule 16-2
2 meeting, the parties shall exchange proposed jury
3 instructions, verdict forms and special interrogatories.
4 Seven days before the meeting, counsel shall exchange written
5 objections, if any, to proposed jury instructions, verdict
6 form and special interrogatories. At the Local Rule 16-2
7 meeting, the parties shall confer with the objective of
8 submitting one set of agreed upon instructions, a mutually
9 agreed upon verdict form and, if necessary, special
10 interrogatories.

11 (ii) If the parties cannot agree upon one
12 complete set of instructions, verdict form and/or special
13 interrogatories, they shall file two documents with the
14 Court: a joint document reflecting the agreed upon
15 instructions, verdict form and/or special interrogatories;
16 and a second document in the form of a joint statement
17 regarding the disputed instructions, verdict form, and/or
18 special interrogatories in the following format for each
19 instruction, verdict form and/or special interrogatories in
20 issue:

21 (a) A separate page containing the text of the
22 disputed language with an identification of the party
23 proposing it;

24 (b) Following the text of the disputed
25 language, the opposing party's statement of objections to the
26 disputed language along with legal authority in support of
27 the argument (not to exceed one page) and proposed
28 alternative language where appropriate; and

1 (c) The proposing party's response to the
 2 objection with legal authority supporting the proposed
 3 language, not to exceed one page.

4 Both the agreed on set and the joint statement regarding
 5 disputed instructions, verdict form, and/or special
 6 interrogatories are to be filed with the Final Pre-Trial
 7 Conference Order and other Local Rule 16 documents.

8 (iii) All proposed jury instructions shall be
 9 in the format specified by Local Rule 51-2. The Court will
 10 send a copy of the instructions into the jury room for the
 11 jury's use during deliberations. Accordingly, in addition to
 12 the file copies described above, counsel shall submit a
 13 "clean set" of Joint Proposed and/or Disputed Jury
 14 Instructions, containing only the text of each instruction
 15 set forth in full on each page, with the caption "Court's
 16 Instruction No. __" (eliminating titles, supporting
 17 authority, indication of party proposing, etc.).

18 (iv) A Table of Contents shall be included with
 19 all jury instructions submitted to the Court. The Table of
 20 Contents shall set forth the following:

- 21 (a) The number of the instruction;
- 22 (b) A brief title of the instruction;
- 23 (c) The source of the instruction; and
- 24 (d) The page number of the instruction.

25 For example:

26	Number	Title	Source	Page Number
27	1	Burden of Proof	9th Cir. Manual of	5
28			Model Jury Instr. 5.1	

1 (v) The Court directs counsel to use the
2 instructions from the Manual of Model Jury Instructions for
3 the Ninth Circuit (West Publishing, latest edition) where
4 applicable. Where California law is to be applied and the
5 above instructions are not applicable, the Court prefers
6 counsel to use the Judicial Council of California Civil Jury
7 Instructions ("CACI") (LexisNexis Matthew Bender, latest
8 edition). If neither of these sources is applicable, counsel
9 are directed to use the instructions from O'Malley, Grenig
10 and Lee, Federal Jury Practice and Instructions (latest
11 edition).

12 (vi) Modifications of instructions from the
13 foregoing sources (or any other form instructions) must
14 specifically state the modification made to the original form
15 instruction and the authority supporting the modification.

16 Caveat: The failure of any counsel to comply with or
17 cooperate in all of the foregoing procedures regarding jury
18 instructions may result in sanctions, including in
19 appropriate circumstances, a waiver of all objections to the
20 jury instructions given by the Court.

21 g. Joint Statement of the Case and Requests for
22 Voir Dire. At the Final Pre-Trial Conference, the parties
23 shall file their proposed voir dire questions and their joint
24 statement of the case which the Court shall read to all
25 prospective jurors prior to the commencement of voir dire.
26 The statement should not be longer than two or three
27 paragraphs.

28

1 The Court conducts voir dire of all prospective jurors.
2 The parties need not submit requests for standard voir dire
3 questions, such as education, current occupations, marital
4 status, prior jury service, etc., but should include only
5 proposed questions specifically tailored to the parties and
6 issues of the case.

7 7. COURT TRIAL: FINDINGS OF FACT AND CONCLUSIONS OF LAW
8 Counsel for each party shall lodge and serve initial proposed
9 findings of fact and conclusions of law by the date specified
10 on the last page of this Order. Courtesy copies of the
11 documents shall also be deposited in the drop box/tray
12 located at the entrance way to the Judge's Chambers on the
13 due date by 4:00 p.m.

14 8. Settlement
15 The parties must file a Status Report regarding settlement at
16 the time they lodge the Proposed Final Pre-Trial Conference
17 Order. This Report shall not disclose the parties'
18 settlement positions, i.e. the terms of any offers or
19 demands. It shall merely describe the efforts made by the
20 parties to resolve the dispute informally, i.e. the occasions
21 and dates when the parties participated in mediations or
22 settlement conferences.

23
24 Dated: June 18, 2007

Valerie Baker Fairbank
VALERIE BAKER FAIRBANK
United States District Judge

JUDGE VALERIE BAKER FAIRBANK
SCHEDULE OF TRIAL AND PRE-TRIAL DATES

Scheduling Conference Notes
For The Honorable Judge Valerie Baker Fairbank,
U.S. District Judge

SCANNED

1. Parties and Case Number:
 - a. X17, Inc., v. Mario Lavandeira, dba Perez Hilton
 - b. Case number: CV 06-7608-VBF(JCx)
2. Trial: March 11, 2008 at 8:30 AM
 - a. Jury X
 - b. Court
 - c. Time Est.: 7-10 days
3. FPTC: February 25, 2008 at 2:30 PM
4. Motion Cut-off (hearing) 1/28/08; to file 12/17/07
5. Non-expert Discovery Cut-off: 11/30/07
6. Expert Discovery Cut-off: 2/18/08
7. Cut-off for adding parties/ Amending cut-off
8. ADR
9. Settlement Conference to be held no later than November 30, 2007.

~~***Dates***~~ are firm. Counsel are on notice. Court is unlikely to continue dates, absent a showing of good cause.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1888 Century Park East, Suite 1106, Los Angeles, California 90067.

On December 27, 2007, I served the foregoing document described as **DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTION TO MOTION FOR SUMMARY JUDGMENT** on the parties in this action by serving:

SEE ATTACHED SERVICE LIST

☒ **By Envelope:** by placing () the original (X) a true copy thereof enclosed in sealed envelopes addressed as above and delivering such envelopes:

☒ **By Mail:** As follows: I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

() **By Personal Service:** I delivered such envelope by hand to the offices of the addressee(s).

() **By Federal Express:** I caused the envelope(s) to be delivered to the Federal Express office for delivery on the next-business-day basis to the offices of the addressee(s).

() **By Electronic Mail:** I scanned and submitted an electronic versions of the document via electronic mail to the above and confirmed receipt of the e-mail.

☒ **By Facsimile Transmission:** On December 27, 2007, I caused the above-named document to be transmitted by facsimile transmission, from fax number 310-557-9101, to the offices of the addressee(s) at the facsimile number(s) so indicated. The transmission was reported as complete and without error.

Executed on December 27, 2007, at Los Angeles, California.

☒ **FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Stacy Van Pelt

SERVICE LIST

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2 Chris Arledge, Esq.
3 Turner Green Afrasiabi & Arledge LLP
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5 Suite 850
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